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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/750,741

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Hal Popplewell

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06/14/2006

Blaney Harper, Esq.
Jones Day, Reavis & Pogue
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Washington, DC 20001

EXAMINER

MASINICK, MICHAEL D

ART UNIT

PAPER NUMBER

2125

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,741

Applicant(s)

POPPLEWELL, HAL

Examiner

Michael D. Masinick

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2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims 1-7 drawn to a nonelected invention. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01. This restriction requirement is made final.

Response to Arguments

1. Applicant's arguments filed 11/28/2005 have been fully considered but they are not persuasive.

2. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Moore patent shows a variety of "tags" and "tag systems" specifically for a manufacturing line. The Abe system is a manufacturing line that uses a barcode tracking system. As these two pieces of prior art are both directly related to manufacturing in a production line environment and are both concerned with the tracking of the products, it would have been

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obvious to one of ordinary skill in the art to use the concepts set forth by either piece of art to improve on the concepts presented by the other. In this case, the substitution of a bar code "sheet" (containing multiple barcodes) as a second tag used for painting purposes of a vehicle is maintained as a reason to combine these references.

3. Applicant also argues that the references, even if properly combined, do not result in the claimed invention because there is no disclosure of "automatically reading a second information tag." Abe shows a plurality of barcode tags that are read as the car is moved into the manufacturing station. This patent does not use the word "automatically", but also does not infer that the barcode reading is a manual process. For example, Abe states "The slotted bar code is read by means of an optical bar-code reader or a laser scanner at each station. The bar code is read and converted into a digital code identifying components to be assembled to the base component and the processes required."

4. Even if it was assumed that this was a manual process in the Abe patent, which examiner does not, it would have been obvious to one of ordinary skill at the time the invention was made to have an automated barcode reader as is well known in the art doing the readings by "optical bare-code reader or laser scanner".

5. Finally, the applicant argues that the step of transmitting this information to a computer is not shown. It is not possible for a barcode scanner to work outside of a computer environment. The Moore Publication shows all aspects of the tracking system and computer updating from a scanned tag. The Abe patent simply shows an additional tag "associated with a component".

6. Examiner recommends adjusting the claim language to clearly state that the second tag is attached to a component being added to a product and that the main product and the component

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product are separate tag items. The current claim language is vague in this regard and can be interpreted in a variety of ways.

7. All rejections are maintained as previously written.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication 2003/0196312 to Moore et al in view of U.S. Patent No. 4,611,380 to Abe et al.

3. Examiner would first like to bring attention to the Moore reference. This patent publication is for a case which has gone abandoned and references application number 09/544,422 which is now laid open upon the publishing of this pre-grant publication. It appears that the subject matter of the current application (specification, drawings, and claims) has been created using the previous application as a starting point and advancing on the concepts set forth. However, there is no documentation evidence that applicant has invented any piece of this current invention other than “automatically reading a second information tag associated with said component; and transmitting information from said second tag to said computer”. All other claimed elements are clearly found in the Moore reference or in the specification of the cited

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parent document. However, there are no common inventors, common assignment, common attorneys, or a request for priority. Therefore, the Moore document must be treated as prior art.

4. Also, applicant is reminded that any other known information or documents pertinent to the patentability of these claims should be filed in an information disclosure statement in response to this office action.

5. Regarding claims 8-13, as noted above, all claimed aspects of this invention are clearly shown in Moore et al (most of them even word for word) with the exception of the claim elements “automatically reading a second information tag associated with said component; and transmitting information from said second tag to said computer”.

6. The use of various types of “tags” in assembly line systems is not new. RFID tags, bar code readers, and magnetic tags all have a multitude of prior art showing their use on assembly lines to provide information regarding components to be assembled.

7. Abe shows an assembly line manufacturing process which “automatically reading a second information tag associated with said component”. Specifically, Abe shows a “bar code label sheet” which has a bar code for each component which is to be added to the vehicle along the production line as well as other information such as color of paint for the painting station (Column 2, lines 20-48,). Examiner also notes claim 29 of Abe showing information about components to be mounted on the base component and a controller (computer) for receiving said digital signal from the bar code reader.

8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the component bar code information relaying system of Abe to relay information about components to be attached in Moore because “a bar code label used in the

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control method is effective... to provide information and instructions relating to the models, types, and/or specifications of the products [to be installed]" (Abe, Col 3, lines 14-17).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D. Masinick whose telephone number is (571) 272-3746. The examiner can normally be reached on Mon-Fri, 7:30-4:00.

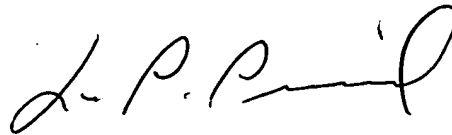
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael D Masinick
Examiner
Art Unit 2125

MDM, June 7, 2006



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